

**U.S.S.N. 10/032,201**

**Van Rooijen et al.**

**ELECTION**

The Office Action states that page 1 of the application is missing and provides alternative approaches for response to this issue. Applicant is filing a Petition under 37 C.F.R. §1.53(e) in accordance with Option C, outlined in the Office Action. It is respectfully submitted that a complete specification was filed.

The purpose of the Petition is to request that the filing date of December 19, 2001, is granted to the above-identified application. The following remarks will describe (1) patent applications are carefully reviewed and packaged for completeness before they are hand carried to the Post Office for mailing to the Patent Office, (2) chronological files of documents filed with the PTO are complete, (3) documentation mailed by the PTO prior to the Office Action, mailed May 27, 2003, did not show that page 1 was missing from the specification, and (4) problems with incomplete documents sent to the PTO due to the mail handling procedures of the D.C. Post Office during this time period.

Our office mailed the instant application to the PTO, Washington, D.C. 20231 mailing address on December 19, 2001, as evidenced on the attached Express Mail label EL870637445US. The application containing 146 pages including claims and abstract; sequence listing containing 202 pages; and 8 sheets of drawings, were received by the PTO on December 19, 2001, as indicated by the date-stamped returned postcard.

Our office follows specific procedures to ensure that a specification and accompanying documents are completely intact before they are placed in an Express Mail envelope. Specifically, we always print out the specification and make sure that we file that original with the PTO. The attorney in charge, as well as two other people, review the specification for completeness and count the number of pages and review all documents twice before placing the documents into an Express Mail envelope. After we have completed all of the procedures set forth above, the application is personally hand delivered to the Post Office.

In addition, our standard procedure is to keep a chronological copy of the entire set of documents that are filed with the PTO. We have reviewed the copy of the instant application and have identified that we have a complete copy of the

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specification, including page 1. Since we have these procedures in place, and have determined that a complete copy of the application is in our chronological file, we can attest that a complete specification was mailed, including page 1 of the specification, to the D.C. Post Office.

It is also noted, that in the Notice to File Missing Parts mailed February 22, 2002, and in the Notice to Comply with Requirements for Patent Application Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed May 8, 2002, the PTO did not indicate that page 1 was missing from the specification. Accordingly, page 1 was present at that time.

During the same time period, our office encountered a number of instances of papers filed with the Patent Office in which the pages were missing or damaged. It was discovered that some of the U.S. mail was being contaminated with Anthrax. As a result, the D.C. Post Office irradiated all mail for a period of a few months in order to stop the contamination process. Due to this process, many of the documents mailed to the D.C. Post Office during that time were either lost, mutilated or destroyed by the irradiation process. Thus, it appears that page 1 was damaged or lost by the Patent Office subsequent to receipt,

In view of the remarks herein, reconsideration of the requirement for restriction and examination of all claims on the merits, review of the Petition, entry of missing page 1 in the application and granting December 19, 2001, as the application filing date are respectfully requested.

Respectfully submitted,  
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